

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

Michael Hitter,)
)
) C.A. No.: 2:01-03626-RBH
Plaintiff,)
)
)
vs.) **O R D E R**
)
)
Gary Maynard,)
)
)
Defendant)
)
)
_____)

This matter is before the court for review of the Report and Recommendation of United States Magistrate Judge Robert S. Carr, made in accordance with 28 U.S.C. § 636(b)(1)(B) and Local Rule 73.02 for the District of South Carolina.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with this court. See Mathews v. Weber, 423 U.S. 261, 270-71 (1976). The court is charged with making a de novo determination of those portions of the Report and Recommendation to which specific objection is made, and the court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge or recommit the matter with instructions. See 28 U.S.C. § 636(b)(1).

No objections were filed to the Report and Recommendation. It has been brought to the court's attention that the plaintiff, Mr. Michael Hitter, died on May 23, 2008. On June 6, 2008 [docket entry # 27] an Order was entered advising that unless an appropriate family made a motion under Rule 25 of the Federal Rules of Civil Procedure for substitution within 90 days, this action

would be subject to dismissal. No one has made a motion for substitution from this June 6, 2008 Order. In the absence of objections to the Report and Recommendation of the Magistrate Judge, this court is not required to give any explanation for adopting the recommendation. See Camby v. Davis, 718 F.2d 198, 199 (4th Cir. 1983).

After a thorough review of the Report and Recommendation and the record in this case, the court adopts Magistrate Judge Carr's Report and Recommendation and incorporates it herein. It is therefore

ORDERED that this action is hereby DISMISSED with prejudice for failure to prosecute and failure to respond to the Order of this Court.

IT IS SO ORDERED.

s/ R. Bryan Harwell
R. BRYAN HARWELL
United States District Judge

Florence, South Carolina
September 30, 2008